

REMARKS

1. Status of Claims

Claims 1, 3-12 and 14-22 were pending in the Application. Applicants have amended claims 1, 14 and 20-22 and canceled claim 15 without prejudice or disclaimer. Applicants have added new claim 23. A Request for Continued Examination (RCE) is submitted herewith. Applicants respectfully request entry of the above amendments and consideration of the enclosed remarks. Applicants submit that no new matter is added. Accordingly, claims 1, 3-12, 14 and 16-23 will remain pending in the application.

2. Rejections under 35 USC § 103(a)

In section 10 of the Office Action, the Examiner rejected claims 1, 3-12 and 14-22 under 35 U.S.C. 103(a) as allegedly rendered obvious by U.S. Patent Application Publication No. 2004/0044586-A1 by Gullo, et al. ("Gullo '586") in view of U.S. Patent Application Publication No. 2003/0101147-A1 by Montgomery, et al. ("Montgomery '147").

Applicants respectfully traverse the rejection. Initially, Applicants respectfully submit that the Examiner has not established a prima facie rejection since not all recited elements are taught or suggested by the cited art. Additionally, Applicants respectfully dispute any intended statement of official notice.

Solely in order to expedite prosecution, Applicants have amended independent claim 1 to recite "promptly processing the refund request; then determining if the refund request is valid." Accordingly, the rejection is moot.

Furthermore, Applicants respectfully submit that the cited references do not teach or suggest such prompt refund processing followed by determining if the refund request is valid.

With regard to independent claim 20, Applicants have amended the claim to recite:

the determination of whether the refund request is valid includes determining whether the tracking identifier has been observed in a mail stream during a variable test period for each of the mail pieces and

processing the refund request includes sending aggregated refund request data to a postage broker, wherein the variable test period depends upon the class of service of each of the respective mail pieces.

Accordingly, the rejection is moot. Furthermore, Applicants respectfully submit that the cited references do not teach or suggest such variable test periods.

With regard to independent claim 21, Applicants have amended the claim to recite:

the determination of whether the refund request is valid includes determining whether the refund request corresponds to a prior postage dispense operation and determining whether the tracking identifier has been observed in a mail stream during a variable test period for the mail piece and wherein,

processing the refund request further comprises crediting a postage account held with a postage provider,

wherein the variable test period depends upon the class of service of the mail piece.

Accordingly, the rejection is moot. Furthermore, Applicants respectfully submit that the cited references do not teach or suggest such prior postage dispense operation test and such variable test periods.

With regard to dependent claim 22, Applicants respectfully submit that the cited references do not teach or suggest:

“if the mail piece is used after a refund payment, assessing a postage fee and a fine.”

Applicants have amended claim 14 and canceled claim 15 without prejudice or disclaimer. The rejected dependent claims are patentable over the cited references for at least the reasons cited above with reference to the respective independent claim and any intervening claims.

Therefore, Applicants respectfully submit that claims 1, 3-12 and 14 and 16-22 are patentable over the cited references. Accordingly, Applicants respectfully request the Examiner withdraw the rejection to claims 1, 3-12 and 14 and 16-22.

In section 11 of the Office Action, the Examiner rejected claim 15 under 35 U.S.C. 103(a) as allegedly rendered obvious by U.S. Patent Application Publication No. 2004/0044586-A1 by Gullo, et al. ("Gullo '586") in view of Official Notice.

Applicants respectfully traverse the rejection. Initially, claim 15 has been canceled and the elements of that claim added to claim 14. Claim 14 is patentable over the cited references for at least the reasons cited above.

Applicants also again respectfully submit that the Official Notice may not be clear and request clarification if more is taken by notice than the fact that multiple classes of service of mail delivery are available that may have different service targets regarding delivery. It is of course true that a mail piece sent by a generally slower class of service may be delivered sooner than a faster class of service, particularly if the routes are different.

Accordingly, Applicants respectfully submit that the reference is not properly combined since it would not have been obvious to make the claimed improvement.

Accordingly, Applicants respectfully submit that the rejection is moot and request the Examiner withdraw the rejection to claim 15.

Accordingly, Applicant respectfully submits that claims 1, 3-12 and 14-22 are in condition for allowance and respectfully request that the Examiner withdraw the rejections.

3. New Claims

Applicants respectfully submit that new dependent claim 23 is patentable over the cited references for at least the reasons described above with reference to the associated independent claim.

4. Conclusion Of Remarks

For at least the reasons stated above, it is respectfully submitted that the claims of this application are in condition for allowance and early and favorable action thereon is requested.

If the Examiner believes that additional issues may be resolved by a telephone interview, the Examiner is respectfully urged to telephone the undersigned attorney for Applicant at (203) 924-3180.

5. Authorization

No fee is believed due with this response. However, the Commissioner is hereby authorized to charge any additional fees which may be required for the response or credit any overpayment to the Pitney Bowes, Inc. Deposit Account Number 16-1885, Order No. F-775.

In the event that an extension of time or additional extension of time is required to make this response timely filed, the Commissioner is requested to grant a petition for that extension of time which is required to make this response timely. The Commissioner is hereby authorized to charge any fee for such an extension of time or credit any overpayment for an extension of time to the Pitney Bowes, Inc. Deposit Account Number 16-1885, Order No. F-775.

Respectfully submitted,

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